IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1329 OF 2006

Smt. Nitaben w/o Rajanikant Patel ...Petitioner

Versus

The Regional Passport Officer and another ...Respondents

Mr. K.H. Dhuldhwaj for the petitioner.

None for the respondents.

CORAM: **H.S. BEDI, C.J.,** &
V.M. KANADE, J.

DATE: OCTOBER 19, 2006.

P.C.

The petitioner, who is a citizen of India, seeks a direction to the Regional Passport Officer, respondent No.1, to correct her date of birth in her passport as 28th November, 1962, as against 28th June, 1961, which stands presently inscribed.

2. Respondent No.1 issued a passport to the petitioner showing her date of birth as 28th June, 1961. As the petitioner wished to settle in the United States of America, she sent the passport and other connected papers to her relatives in that country and it was at that point of time it was realised that the date of birth had been wrongly

entered in the passport. The petitioner thereupon made an application to respondent No.1 for rectification of her date of birth. Respondent No.1, however, declined to grant the prayer and directed her to get the approval of the Civil Court and seek a declaration with regard to her date of birth. This communication dated 26th May, 2005, has been appended at Exhibit-D to the petition. In accordance with this directive, the petitioner filed a suit in the Bombay City Civil Court but the same was returned by order dated 24th January, 2006, Exhibit-E to the petition, as being not maintainable, in view of the judgment of this Court in the case of *Jigar Harish Shah* vs. *Union of India and another,* reported in [2001 (1) Mh. L.J. 483). Faced with this situation, the petitioner is before us again by way of this writ petition.

3. Despite notice, no reply has been filed by the respondents. We, therefore, take the facts narrated in the petition as correct. In the case of Jigar Harish, it has been observed that by directing an applicant to move the Civil Court for a direction to correct the date of birth would not only be time consuming for the applicant but would also frustrate the smooth functioning of the Courts as a huge number of such cases would come up before them. As observed in the said case, it was for the Passport Authority to satisfy itself as to the claim of the applicant

and to make such orders as were necessary.

4. In the light of the aforementioned observations, we direct respondent No.1 to reappraise the matter keeping in mind the observations of the Division Bench in the cited case and to satisfy himself about the claim put forward by the petitioner and to issue a passport in her favour if he finds it to be justified. The entire exercise shall be completed within a period of one month from the date of a copy of this order supplied to respondent No.1. Writ petition is disposed of in the above terms. Rule is made absolute.

CHIEF JUSTICE

V.M. KANADE, J.